

**Introduced by Senator Scott**

January 6, 2005

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An act to amend Section 12316 of the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as amended, Scott. Ammunition.

Existing law makes it an offense for any person, corporation, or dealer to sell ammunition or reloaded ammunition to a person, knowing that person to be under 18 years of age, or to sell ammunition or reloaded ammunition designed and intended for use in a handgun to a person, knowing that person to be under 21 years of age. Existing law also establishes an affirmative defense to the offense if, among other things, the seller relied upon bona fide evidence of majority and identity, as defined.

This bill would remove the element of "knowing the person to be under the age" of 18 or 21 years of age, as applicable, from the definition of the offense. The bill would require reasonable reliance upon bona fide evidence of majority and identity, as defined, in order for the affirmative defense to apply. *The bill would allow ammunition vendors to sell ammunition or reloaded ammunition that can be used in both a rifle and a handgun to persons at least 18 years of age but less than 21 years of age if the vendor reasonably believes the ammunition is being acquired for use in a rifle and not a handgun.*

By expanding the scope of an existing crime, and narrowing the scope of an affirmative defense to that crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12316 of the Penal Code is amended to  
2 read:

3 12316. (a) (1) Any person, corporation, or dealer who does  
4 either of the following shall be punished by imprisonment in a  
5 county jail for a term not to exceed six months, or by a fine not to  
6 exceed one thousand dollars (\$1,000), or by both the  
7 imprisonment and fine:

8 (A) Sells any ammunition or reloaded ammunition to a person  
9 under 18 years of age.

10 (B) Sells any ammunition or reloaded ammunition designed  
11 and intended for use in a ~~pistol, revolver, or other firearm capable~~  
12 ~~of being concealed upon the person~~ *handgun* to a person under  
13 21 years of age. As used in this subparagraph, “ammunition”  
14 means handgun ammunition as defined in subdivision (a) of  
15 Section 12323. Where ammunition or reloaded ammunition may  
16 be used in both a rifle and a handgun, ~~federal law shall be~~  
17 ~~considered for purposes of enforcing this subparagraph.~~ *it may be*  
18 *sold to a person who is at least 18 years of age, but less than 21*  
19 *years of age, if the vendor reasonably believes that the*  
20 *ammunition is being acquired for use in a rifle and not a*  
21 *handgun.*

22 (2) Proof that a person, corporation, or dealer, or his or her  
23 agent or employee, demanded, was shown, and acted in  
24 reasonable reliance upon, bona fide evidence of majority and  
25 identity shall be a defense to any criminal prosecution under this  
26 subdivision. As used in this subdivision, “bona fide evidence of  
27 majority and identity” means a document issued by a federal,  
28 state, county, or municipal government, or subdivision or agency  
29 thereof, including, but not limited to, a motor vehicle operator’s  
30 license, California state identification card, identification card  
31 issued to a member of the armed forces, or other form of

1 identification that bears the name, date of birth, description, and  
2 picture of the person.

3 (b) (1) No person prohibited from owning or possessing a  
4 firearm under Section 12021 or 12021.1 of this code or Section  
5 8100 or 8103 of the Welfare and Institutions Code shall own,  
6 possess, or have under his or her custody or control, any  
7 ammunition or reloaded ammunition.

8 (2) For purposes of this subdivision, “ammunition” shall  
9 include, but not be limited to, any bullet, cartridge, magazine,  
10 clip, speed loader, autoloader, or projectile capable of being fired  
11 from a firearm with a deadly consequence.

12 (3) A violation of this subdivision is punishable by  
13 imprisonment in a county jail not to exceed one year or in the  
14 state prison, by a fine not to exceed one thousand dollars  
15 (\$1,000), or by both the fine and imprisonment.

16 (c) Unless it is with the written permission of the school  
17 district superintendent, his or her designee, or equivalent school  
18 authority, no person shall carry ammunition or reloaded  
19 ammunition onto school grounds, except sworn law enforcement  
20 officers acting within the scope of their duties or persons  
21 exempted under subparagraph (A) of paragraph (1) of  
22 subdivision (a) of Section 12027. This subdivision shall not  
23 apply to a duly appointed peace officer as defined in Chapter 4.5  
24 (commencing with Section 830) of Title 3 of Part 2, a full-time  
25 paid peace officer of another state or the federal government who  
26 is carrying out official duties while in California, any person  
27 summoned by any of these officers to assist in making an arrest  
28 or preserving the peace while he or she is actually engaged in  
29 assisting the officer, a member of the military forces of this state  
30 or of the United States who is engaged in the performance of his  
31 or her duties, a person holding a valid license to carry the firearm  
32 pursuant to Article 3 (commencing with Section 12050) of  
33 Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who  
34 is engaged in the performance of his or her duties, as defined in  
35 subdivision (e) of Section 7521 of the Business and Professions  
36 Code. A violation of this subdivision is punishable by  
37 imprisonment in a county jail for a term not to exceed six  
38 months, a fine not to exceed one thousand dollars (\$1,000), or  
39 both the imprisonment and fine.

1 (d) (1) A violation of paragraph (1) of subdivision (b) is  
2 justifiable where all of the following conditions are met:

3 (A) The person found the ammunition or reloaded ammunition  
4 or took the ammunition or reloaded ammunition from a person  
5 who was committing a crime against him or her.

6 (B) The person possessed the ammunition or reloaded  
7 ammunition no longer than was necessary to deliver or transport  
8 the ammunition or reloaded ammunition to a law enforcement  
9 agency for that agency's disposition according to law.

10 (C) The person is prohibited from possessing any ammunition  
11 or reloaded ammunition solely because that person is prohibited  
12 from owning or possessing a firearm only by virtue of Section  
13 12021.

14 (2) Upon the trial for violating paragraph (1) of subdivision  
15 (b), the trier of fact shall determine whether the defendant is  
16 subject to the exemption created by this subdivision.

17 (3) The defendant has the burden of proving by a  
18 preponderance of the evidence that he or she is subject to the  
19 exemption provided by this subdivision.

20 SEC. 2. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the  
25 penalty for a crime or infraction, within the meaning of Section  
26 17556 of the Government Code, or changes the definition of a  
27 crime within the meaning of Section 6 of Article XIII B of the  
28 California Constitution.